

Article - Environment

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§5–906.

(a) The following types of activities shall be exempt from the permit requirements of this section if notice is given to the Department and best management practices are implemented:

(1) Activities which normally occur in nontidal wetlands with minimal impact on nontidal wetlands, including the repair and maintenance of existing structures, utilities, including underground utilities, rights-of-way, and railroad beds; or

(2) Activities in isolated nontidal wetlands of less than 1 acre and having no significant plant or wildlife value.

(b) (1) After December 31, 1990 a person may not conduct a regulated activity without first obtaining a permit from the Department.

(2) In addition to obtaining a permit, a person shall comply with all other pollution control, flood hazard reduction, sediment control, stormwater management, local zoning, and other applicable federal, State, and local regulations.

(c) To apply for a permit, the applicant shall submit a delineation of the affected nontidal wetlands and all other information as required by the Department.

(d) Within 45 days from receipt of the application, the Department shall notify the applicant whether the application is complete and the delineation is correct. If the Department fails to notify the applicant about the application or delineation within 45 days, the delineation shall be treated by the Department as correct and the application shall be treated as complete. The Department may request further information or provide for an extension of this deadline when extenuating circumstances prevent consideration of the application.

(e) After receipt of a complete application, under the procedures of § 5-204(b) through (e) of this title the Department shall issue public notice of an opportunity to submit written comments or to request a hearing. A hearing shall be held within 45 days if requested, unless extenuating circumstances justify an extension of time. The hearing is not a contested case under the State Government Article.

(f) In granting a permit, the Department may impose conditions or limitations required to carry out the provisions of this subtitle.

(g) The Department may require a bond or other instrument to secure compliance with the conditions in the permit.

(h) The Department may issue a temporary emergency permit for a regulated activity if:

(1) An unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and

(2) The anticipated threat or loss may occur before a permit can be issued or modified as provided under this subtitle.

(i) (1) By December 31, 1989 the Department shall designate by regulation nontidal wetlands for which the buffer is to be expanded beyond 25 feet, but the total buffer may not exceed 100 feet, to assure adequate protections from adjacent activities or conditions which may adversely affect the nontidal wetland and associated aquatic ecosystem.

(2) Activities or conditions where the buffer may be expanded beyond 25 feet include the presence of slopes, highly erodible soils or other soils with development constraints, or the presence of nontidal wetlands of special State concern.

(j) The Department shall grant, deny, or condition a permit within 45 days of a public hearing or within 60 days of the receipt of a completed application if no hearing is held. After notifying the applicant, the Department may extend its action beyond these time periods for an additional 30 days for extenuating circumstances.

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